

The Hon. John C. Coughenour

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

JOSEPH DANIEL HUDEK IV,

Defendant.

NO. CR17-174-JCC

GOVERNMENT'S REQUEST FOR  
RESTITUTION

Comes now the United States of America, by and through Annette L. Hayes,  
United States Attorney for the Western District of Washington, and Stephen Hobbs,  
Assistant United States Attorney for said District, and submits this request for restitution  
to be imposed art sentencing.<sup>1</sup>

Hudek has pled guilty to the following crimes charged in the Indictment:

Count 1: *Interference with Flight Crew*, 49 U.S.C. §46504.

Count 2: *Assault in Special Aircraft Jurisdiction*, 18 U.S.C. §113(a)(6) and  
49 U.S.C. §46506 (Flight Attendant Simpson, serious bodily  
injury).

<sup>1</sup> The Court is familiar with the factual and procedural background of this case, which will not be repeated here.

Count 3: *Assault in Special Aircraft Jurisdiction*, 18 U.S.C. §113(a)(4) and 49 U.S.C. §46506 (Flight Attendant DePinto, assault).

Count 4: *Assault in Special Aircraft Jurisdiction*, 18 U.S.C. §113(a)(6) and 49 U.S.C. §46506 (Passenger Arnold, serious bodily injury).

Dkt. 51, ¶ 1.

The government respectfully request restitution to the victims be ordered in the following amounts:

<b>PAYEE</b>	<b>TOTAL LOSS</b>	<b>ITEMIZED</b>
Lon Arnold	\$5938.58	See Exhibit A
Eunice DePinto	\$509.38	See Exhibit B
Dorrie Simpson	\$925.04	See Exhibit C
Delta Airlines	\$60,468.39	See Exhibit D
Total Restitution	\$67,841.39	

*See Exhibits A to D.*

The Mandatory Victim Restitution Act (MVRA), 18 U.S.C. § 3663A(c), makes restitution mandatory, as a separate term of the sentence, for all crimes of violence. Where restitution is mandatory, the court must order restitution “in the full amount of each victim’s losses . . . without consideration of the economic circumstances of the defendant.” 18 U.S.C. § 3664(f)(1)(A).

A “crime of violence” is broadly defined; it is not limited to title 18 offenses and includes offenses where there is merely “a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.” 18 U.S.C. § 16.

Defendant Hudek has pled guilty in Counts 2, 3 and 4 to crimes of violence involving victims Simpson, DePinto, and Arnold. The requests for restitution for all three named victims include their out-of-pocket expenses (i.e., expenses not covered by insurance or workers compensation) and lost work that were proximately caused by the defendant’s actions. Imposition of this restitution is mandatory, including for lost work

1 and (in the case of violent crime) medical expenses. 18 U.S.C. §§ 3663A(b)(2), (b)(4). The  
 2 government notes that pursuant to the Plea Agreement, Hudek acknowledged that he  
 3 would owe restitution to these three victims, although there was no agreement as to the  
 4 specific amount owed.

5 In addition, 18 U.S.C. § 3663(a)(1)(A) makes restitution discretionary for  
 6 violations of 49 U.S.C. § 46504. Where restitution is discretionary, there must be a  
 7 showing that the defendant has some ability to pay, and that victim losses have been  
 8 identified. 18 U.S.C. § 3663(a)(1)(B)(i).

9 Here Hudek has pled guilty in Count 1 to *Interference with Flight Crew*, in  
 10 violation of 49 U.S.C. § 46504. The losses caused by his actions to Delta Airlines are  
 11 clearly set forth in Exhibit D and are consistent with what might be expected when a  
 12 large international flight is forced to abort travel to its destination and make an  
 13 emergency landing. Further, as set forth in the PSR, defendant Hudek appears to be an  
 14 able-bodied individual who is capable of working and repaying the requested restitution.  
 15 The government respectfully requests that the Court order restitution in the amount of  
 16 \$60,468.39 to Delta Airlines.

17 Finally, restitution is not being sought for the hundreds of Delta Flight 129  
 18 passengers whose travel was disrupted as a result of the defendant's actions.

19 DATED this 11<sup>th</sup> day of May, 2018.

20 Respectfully submitted,

21 ANNETTE L. HAYES  
 22 United States Attorney

23 s/ STEPHEN HOBBS  
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CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s).

s/ Matthew Smith  
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